

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MEL TYRONE EDWARD,

Plaintiff,

No. CIV S-03-2584 ALA P

vs.

S. SCARSELLA, et al.,

Defendants.

ORDER

Plaintiff Mel Edward, a state prisoner proceeding pro se, seeks relief pursuant to 42 U.S.C. § 1983. Before the court is Plaintiff's October 15, 2007, motion to compel discovery. Defendants Scarsella and Saunders have filed oppositions to Plaintiff's motion.

On October 1, 2004, the Magistrate Judge assigned to this case issued a scheduling order which provided that discovery could be conducted until February 18, 2005. On April 18, 2005, Plaintiff filed his first motion to compel discovery. On May 20, 2005, a second scheduling order was issued which provided that discovery could be conducted until August 26, 2005. On August 25, 2005, Plaintiff filed his second motion to compel discovery.

On March 2, 2006, the Magistrate Judge issued findings and recommendations which

1 denied both of Plaintiff's motions to compel discovery.<sup>1</sup> Given that over two years has passed  
2 since the discovery deadline, and Plaintiff has now filed a third motion to compel discovery, the  
3 court will construe Plaintiff's third motion to compel discovery as a request for reconsideration  
4 of the Magistrate Judge's March 2, 2006 denial.

5 Under Local Rule 72-303, a ruling by a magistrate judge is final within ten (10) days of  
6 service on the parties, if no reconsideration is sought. Plaintiff did not seek reconsideration until  
7 well after ten days had elapsed. Therefore Plaintiff's request will be denied.

8 Accordingly, IT IS HEREBY ORDERED that Plaintiff's October 15, 2007 motion to  
9 compel discovery is denied.

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11 DATED: November 6, 2007

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13 /s/ Arthur L. Alarcón  
14 UNITED STATES CIRCUIT JUDGE  
15 Sitting by Designation  
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24 <sup>1</sup> Under Local Rule 63-122, a Magistrate Judge decides all motions in an action except  
25 those concerning Federal Rule of Civil Procedure 63 and Federal Rule of Criminal Procedure 25.  
26 The findings and recommendations filed on March 2, 2006 also recommended that Plaintiff's  
motion for summary judgment be denied and that Defendant's motion for summary judgment be  
granted. That recommendation was not adopted by the District Judge.